

(c) *Integrated locations.* A Class 9 warehouse with multiple noncontiguous sales and crib locations (see §19.37(a) of this part) containing conditionally duty-free merchandise and requested by the proprietor may be treated by Customs as one location if:

(1) The proprietor can provide Customs upon demand with the proper on-hand balance of each inventory item in each storage location, sales room, crib, mobile crib, delivery cart, or other conveyance or noncontiguous location; and

(2) The recordkeeping system is centralized up to the point where a sale is made so as to automatically reduce the sale quantity by location from centralized inventory or inventory records must be updated no less frequently than at the end of each business day to reflect that day's activity.

(d) *Exit point.* The exit point referred to in paragraph (b) of this section means an area in close proximity to an actual exit for departing from the Customs territory, including the gate holding area in the case of an airport, but only if there is reasonable assurance that conditionally duty-free merchandise delivered in the gate holding area will be exported from the Customs territory. The exit point in the case of a land border or seaport duty-free store is the point at which a departing individual has no practical alternative to continuing on to a foreign country or to returning to Customs territory by passing through a U.S. Customs inspection facility. The port director's decision as to what constitutes the exit point or reasonable assurance of exportation in a given situation is final.

(e) *Notice to customers.* Class 9 warehouse proprietors shall display in prominent places where they will be noticed and read by customers signs which state clearly that any conditionally duty-free merchandise purchased from the store:

(1) Has not been subjected to any U.S. Federal duty or tax;

(2) If brought back to the United States must be declared and is subject to U.S. Federal duty and tax with personal exemption; and,

(3) Is subject to the customs laws and regulations, including possible duties

and taxes, of any foreign country to which it is taken.

(f) *Security of sales rooms and cribs.* The physical and procedural security requirements of §19.4(b)(6) of this part shall be applied to the security of the sales rooms and cribs by the port director. The proprietor shall establish procedures to safeguard the merchandise so as to accommodate the movement of purchasers and prospective purchasers of conditionally duty-free merchandise contained in duty-free sales rooms and cribs.

(g) *Approval of governmental authority.* If a state or local or other governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free store under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn for exportation and transferred to or through such facility unless the operator of the duty-free store demonstrates to the port director that the concession or approval required for the enterprise has been obtained.

[T.D. 92-81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97-19, 62 FR 15839, Apr. 3, 1997; T.D. 00-33, 65 FR 31261, May 17, 2000]

#### **§ 19.36 Requirements for duty-free store operations.**

(a) *Withdrawals.* Merchandise withdrawn under the sales ticket procedure in §144.37(h) of this chapter may be delivered only to individuals departing from the customs territory for exportation or to persons and organizations for use as specified in subpart I, part 148, of this chapter. Withdrawals of other kinds may be made from Class 9 warehouses, but only through separate withdrawals (or withdrawals under blanket permit for vessel or aircraft supplies) under an approved permit of the port director as provided in §144.39 of this chapter.

(b) *Procedures required.* Each duty-free store must establish, maintain, and follow written procedures to provide reasonable assurance to the port director that conditionally duty-free merchandise purchased therein will be

exported from the customs territory. A copy of any change in the procedure will be provided to the port director before it is implemented. However, receipt by CBP of the procedures of any change thereto must not be construed as approval by CBP of the procedures. The port director is responsible for ensuring that each enterprise has established guidelines with CBP and is complying with those guidelines, giving assurance that proper supervision exists when delivery is made to the purchaser at or before the exit point. The port director may at any time require any change in the procedures deemed necessary for assurance of exportation.

(c) *Personal-use restrictions.* Any duty-free store which delivers conditionally duty-free merchandise to purchasers at an airport exit point must establish, maintain, and enforce written restrictions on the sale of conditionally duty-free merchandise to any one individual to personal-use quantities. Personal-use quantities means quantities that are only suitable for uses other than resale, and includes reasonable quantities for household or family consumption as well as for gifts to others. Proprietors will not knowingly sell or deliver conditionally duty-free merchandise in any quantity to any individual for the purpose of resale. A copy of the restrictions and of any change thereto must be provided to the port director prior to implementation. However, receipt of the written restrictions by CBP will not be construed as approval by CBP of the restrictions. The port director may require any change in the restrictions deemed necessary to conform to the personal-use quantity restriction of this section.

(d) *Reimported merchandise.* Merchandise purchased in a duty-free store is not eligible for exemption from duty, or tax where applicable, under chapter 98, subchapter IV, Harmonized Tariff Schedule, if it is brought back to the United States after exportation. To enforce this restriction, the port director may require the proprietor to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate the items were sold in a U.S. duty-free store, if a pattern is disclosed in which such items are being brought back to the United States

without declaration. A pattern of undeclared reimportations means a number of instances over a period of time and not isolated instances of unrelated violations. Any such marking required by the port director will be inconspicuous to the purchaser and will not detract from the value of the merchandise. The marking requirement will be limited to the items or types of merchandise noted in the pattern, and will not be extended to all merchandise of the responsible store proprietor unless all or most items are part of the pattern.

(e) *Merchandise eligible for warehousing in duty-free stores (Class 9 Warehouses)*—(1) *In General.* Conditionally duty-free merchandise and other merchandise (domestic merchandise and merchandise which was previously entered or withdrawn for consumption and brought into a duty-free store (Class 9 warehouse) for display and sale or for delivery to purchasers can be warehoused in a duty-free store (Class 9 warehouse), but the conditionally duty-free merchandise and other merchandise must be physically segregated from one another, unless one of the following exceptions apply.

(2) *Marking exception to physical segregation.* Merchandise may be identified or marked “DUTY-PAID” or “U.S.-ORIGIN”, or similar markings, as applicable, to enable CBP officers to easily distinguish conditionally duty-free merchandise from other merchandise in the sales or crib area.

(3) *Electronic inventory exception to physical segregation.* If the proprietor has an electronic inventory system capable of immediately identifying conditionally duty-free merchandise from other merchandise, the proprietor need not physically separate conditionally duty-free merchandise from other merchandise or mark the merchandise.

(f) *Sale of merchandise.* Conditionally duty-free merchandise for exportation at airport or seaport exit points may be sold and delivered only to purchasers who display valid tickets, or in the case of chartered or for-hire flights that have not issued tickets, other proof of impending departure from the customs territory, and to crewmembers who have been engaged for a flight or

voyage departing directly from the customs territory with no intermediate stops in the U.S.

(g) *Inventory procedure.* Duty-free store proprietors must maintain, at the duty-free store or at another location approved by the port director, a current inventory separately for each storage area, crib, and sales area containing conditionally duty-free merchandise by warehouse entry, or by unique identifier where permitted by the port director. Proprietors must assure that CBP has ready access to those records, and that the records are stored in such a way as to keep transactions of multiple facilities separated. The inventory must be reconcilable with the accounting and inventory records and the permit file folder requirements of §19.12 (d), (e) and (f) of this part. Proprietors are subject also to the recordkeeping requirements of other paragraphs of §19.12, as well as those of §§19.6(d), 19.37(d), 19.39(d) of this part, and 144.37(h)(3) of this chapter.

[T.D. 92-81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97-19, 62 FR 15840, Apr. 3, 1997; CBP Doc. 09-48, 74 FR 68685, Dec. 29, 2009]

#### § 19.37 Crib operations.

(a) *Crib.* A crib means a bonded area, separate from the storage area of a Class 9 warehouse, for the retention of a supply of articles for delivery to persons departing from the United States. It shall be located beyond the exit point, unless exception has been made under §19.39 (a) and (b) of this part. The crib may be a permanent location or a mobile facility which is periodically moved to a location beyond the exit point. The quantity of goods in the crib may be an amount requested by the proprietor which is commercially necessary for the delivery operations for a period, if approved by the port director. The port director may increase or decrease the quantity as deemed necessary for the protection of the revenue and proper administration of U.S. laws and regulations, or may order the return to the storage area of goods remaining unsold.

(b) *Delivery and removal of merchandise.* Conditionally duty-free merchandise shall be delivered to the crib, or

removed from the crib for return to the storage area, under the procedures in subpart D, part 125, and §144.34(a), of this chapter, or under a local control system approved by the port director wherein any discrepancy found in the merchandise will be treated as if it occurred in the bonded warehouse. If delivery is made by licensed cartman, cartage vehicles shall be conspicuously marked as provided in §112.27 of this chapter.

(c) *Delivery vehicles.* Vehicles, including mobile cribs, containing conditionally duty-free merchandise for delivery to or from a crib shall carry a listing of the articles contained therein. The proprietor shall provide, upon request by Customs, a transfer document sufficient to account for each movement of inventory among its locations. The merchandise in the vehicles shall be subject to inspection by Customs.

(d) *Retention of records.* Class 9 warehouse proprietors shall maintain records of conditionally duty-free merchandise transported beyond the exit point and returned therefrom, and Customs permits for such movements, for not less than 5 years after exportation of the articles. Such records need not be placed in permit file folders but must be filed by date of movement, destination site and warehouse entry number or by unique identifier where permitted by the port director (see §19.36(g)).

[T.D. 92-81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97-19, 62 FR 15840, Apr. 3, 1997]

#### § 19.38 Supervision of exportation.

(a) *Sales ticket withdrawals.* Conditionally duty-free merchandise withdrawn under the sales ticket procedure for exportation shall be exported only under Customs supervision as provided in this section and §19.39 of this part. General Customs supervision shall be exercised as provided in §19.4 of this part and §101.2(c) of this chapter, and may consist of spot checks of exportation transactions, examination of articles being exported, and audits of the proprietor's records.

(b) *Supervision of ATF bonded exports.* Customs officers may conduct general